

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BEVERLY TRAN,

Plaintiff,

CIVIL ACTION NO. 07-CV-13232-DT

vs.

DISTRICT JUDGE BERNARD A. FRIEDMAN

**MICHIGAN DEPT OF
HUMAN SERVICES, et al.,**

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

REPORT AND RECOMMENDATION

I. RECOMMENDATION: Plaintiff's Motion for Entry of Default (docket no. 101) should be **DENIED**.

II. REPORT:

A. Factual Background

Plaintiff filed a Motion for Entry of Default on February 20, 2008. (Docket no. 101). Plaintiff seeks the entry of default as to Defendant Michael Reizen. Defendant Reizen has filed a Response. (Docket no. 103). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). This matter is now ready for ruling.

B. Standard

The plaintiff bears the burden of showing that the defendant against whom the plaintiff is seeking default has been effectively served with process. 10A Charles Alan Wright, Arthur R. Miller, and Mary Kay Kane, Federal Practice and Procedure § 2682, p. 14 (3d ed. 1998).

C. *Analysis*

Plaintiff has failed to carry her burden of showing that Defendant Reizen has been properly served. This Court recommended denying Plaintiff's earlier Motion for Default against Defendant Reizen because she had not shown that Defendant had been properly served. (Docket no. 70). The district court accepted that Recommendation and denied Plaintiff's motion. (Docket no. 87). Plaintiff has presented no additional evidence of proper service on this Defendant. Therefore, her motion should be denied.

III. NOTICE TO PARTIES REGARDING OBJECTIONS:

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n Of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Any objections must be labeled as "Objection #1," "Objection #2," etc. Any objection must recite *precisely* the provision of this Report and Recommendation to which it pertains. Not later than ten days after service of an objection, the opposing party must file a concise response proportionate to the objections in length and complexity. The response must specifically address

each issue raised in the objections, in the same order and labeled as “Response to Objection #1,” “Response to Objection #2,” etc.

Dated: March 20, 2008

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Report and Recommendation was served upon Beverly Tran and Counsel of Record on this date.

Dated: March 20, 2008

s/ Lisa C. Bartlett

Courtroom Deputy